83-1120

No.

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1983

JOHN J. SCARSELLETTI,
Petitioner

v.

AETNA CASUALTY & SURETY COMPANY,
Respondent

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF PENNSYLVANIA

John J. Scarselletti
40 So. Tallahassee Avenue
Atlantic City, N.J. 08401
(609) 347-1014
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(Pro Se)

THE LEGAL INTELLIGENCER, 10th & SPRING GARDEN STREETS, PHILA., PA. 19123 (215) 236-2000

QUESTIONS PRESENTED FOR REVIEW.

Whether the decision of the Supreme Court of Pennsylvania, by the per Curiam Order of March 4, 1983, denying the Petitioner's Petition for Allowance of Appeal, Per Curiam Order of July 25, 1983 denying the Petition for Reconsideration, is a denial of the Petitioner's constitutional rights, due tothe abritrary, capricious and unreasonable decisions of the Superior Court of Pennsylvania by the Per Curiam Order of July 30, 1983 and November 23, 1983, without due Process of Law, due to the lack of conformity of Due Process of Law, both procedural due process and substantive due process, as to notice of the proceedings, opportunity to prepare for a hearing, opportunity to be heard both presenting one's claim and in combating the claim of the opponent, the hearing to be before an impartial tribunal or Judge, the equal protection of the law, Pro Se discrimination, proper legal representation, and the Judge of the Common

Pleas Court ruling moments before the trial was started that one of the consolidated cases being tried would not be heard and was not heard, a denial of the Petitioner's constitutional rights as guaranteed by the Fifth Amendment of the Constitution of the United States and embodied in the Fourteenth Amendment of the Constitution of the United States, per 28USC Sec. 1257 (3) and based on the United States Supreme Court Rule 17-1-(a) where the Appellate Court and lower Court has so far departed from the accepted and usual course of judicial proceedings, and so far sanctioned such departure by an administrative agency or lower Court, as to call for an exercise of the power of supervision of the Supreme Court, per Pa. Rules of Appellant Procedure Rule 1114 (2).

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IN THE
SUPREME COURT OF THE UNITED STATES
For The Eastern District

October Term, 1983

JOHN J. SCARSELLETTI,
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vs.

AETNA CASUALTY & SURETY COMPANY,
Respondent,

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF PENNSYLVANIA

To: The Honorable, The Chief Justice and the Associate Justices of the Supreme Court of the United States:

Your Petitioner, John J. Scarselletti, Pro Se, formerly of 7026 McCallum Street, Phila., Pa. presently residing at 44 So. Tallahassee Avenue, Atlantic City, N.J., respectfully prays that a Writ of Certiorari issue to review the Per Curiam Orders of March 4, 1983 and July 25, 1983 of the Supreme Court of Pennsylvania

that denied the Petitioner's appeal from the Order dated November 17, 1981 of the Superior Court of Pennsylvania, Nos. 271 and 272, Phila. 1981, to vacate the Order of the Common Pleas Court January 8, 1981 docketed February 5, 1981 and grant a new trial for consolidated cases, Common Pleas Court of Philadelphia, C.P. #4, Sept. Term, 1965, case #2696 and C.P. June Term, 1967 case #5528, a precedent case, which was not heard, due to the trial Judge's untimely ruling.

OPINIONS BELOW.

No Opinions were filed for the Per Curiam Orders of the Supreme Court of Pennsylvania.

JURISDICTION

The denial of Per Curiam Orders sought to be reviewed are a Petition for Allowance of Appeal that was made and entered March 4, 1983 and Petition for Reconsideration that was made and entered July 25, 1983.

This Petition for Writ of Certiorari is filed within the time specified per Rule 28 U.S.C. Sec. 2101 (c) from the denial of the Petition for Reconsideration.

The Statutory provision to confer on this Court's jurisdiction to review the final judgment in question is 28 U.S.C. Sec. 1257 (3).

CONSTITUTIONAL PROVISIONS INVOLVED.

Amendment V.

"No person shall be held to answer for capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

Amendment XIV.

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States, nor shall any State deprive any person of life, liberty or property, without due process or law; nor deny to any person within its jurisdiction the equal protection of the law."

STATUTES INVOLVED

28 U.S.C. Sec. 2101 (c); 28 U.S.C. Sec. 1257 (3); Supreme Court Rule 17-1-(a); Pa. Appellate Court Rule 1114-(2).

STATEMENT OF THE CASE

It is impossible to briefly and concisely state the 20 year history of the legal turmoil of this case as to the Petitioner's struggle for justice but only relates to a small portion pertaining to one of the main reasons for granting this Writ of Certiorari and that is, why the precedent case #5528 was not heard and the Petitioner's constitutional rights were violated. We are dealing with two cases. The first case was filed in Assumpsit October 27, 1965 in the Philadelphia Common Pleas Court No. 4 Sept. Term 1965 case No. 2696 for $32,000, the limit of Aetna Casualty and Surety Company insurance policy on the Petitioner's home at 7026 McCallum Street, Phila., Pa., as the result of fire damage sustained to the Petitioner's home on Oct. 31, 1965. The second case was filed in Assumpsit August 16, 1967 in Philadelphia Common Pleas Court, June Term, 1967 case No. 5528 for $100,000 on a breach of contract, substantiated by a

legal admission in the Appellee's Answer of the Appellant's complaint for case #2696. These two cases were consolidated for trial and decision and obtained a Special Preference Trial Listing for immediate trial and was scheduled for trial. The consolidated cases were listed on the major trial list and reached the third position on same thereby closing all discovery and pleadings but the Appellee improperly and illegally filed a Petition for Leave to Amend their Answer to the Petitioner's Complaint for case #2696 in order to cover up the substantiating legal ramifications of their legal admission upon the Petitioner's second complaint suit case #5528, which alleged conspiracy, collusion and fraud by the Aetna Casualty & Surety Company by virtue of their legal admission. The Petitioner discovered the Appellee's filing for Leave to Amend by the scheduled hearing for same in the Legal Intelligencer just prior to the scheduled hearing and the Petitioner requested an immediate hearing before the Calendar Judge in

this regard, who improperly struck the case from the Major Trial Listing, because at that time no case could be removed from the Major Trial list once it reached the position of being within the top five listed for trial. Also, the Petitioner, being a Pro Se person did not know or realize the significance of the Calendar Judge striking the case from the Major Trial list at that particular time or the legality of such action, which of course is not part of the official record. By the Calendar Judge granting the Appellee's request for discovery time, when all discovery and pleadings were closed by virtue of the fact that the cases were listed for trial, did irreparable harm to the Petitioner's legal position. Because, by the Calen-

Judge's actions, it gave the Appellee's illegal petition some status of legality for the hearing to follow in regard to the Appellee's improper Petition For Leave to Amend their Answer. As the result, the Petitioner appeared before the

Consolidated Motion Judge for the hearing for the Appellee's Petition for Leave to Amend their Answer at which time the Petitioner had no notification of the Petition nor had he received a copy of same so that he could have an opportunity to read it or file a response to same within the 20 day provision for such filing, per the Rules of Civil Procedure. The Petitioner felt secure in the thought that he would appear in Court and the Judge would not consider the Petition in view of the fact that the Petition was submitted in violation of many breaches of Rules of Civil Procedure and would disallow the Petition or at least give the Petitioner time to receive his copy of same and file a response. Also, the Petitioner, who was Pro Se at the time, felt secure in the realization that the Motion Judge would throw the Appellee's petition out also of the fact that he would be in the presence of 60 other attorneys who would observe the proceedings and if the Petitioner needed some quick advice or legal assistance,

they would be ready and able to offer same. But to the surprise and dismay of the Petitioner, when his case came up before the judge, he stated that he had an appointment elsewhere and dismissed the latter half of the motion court list to the afternoon session and kept only the Petitioner's case and two other cases for immediate hearing. The Judge left the Court and when he returned he dismissed the other two cases to the afternoon session leaving only the judge, the appellant, the defense attorney and the court officer in the courtroom. The judge disregarded all breaches of rules of Civil Procedure and all the Petitioner's objections; especially, the fact that the Amendment to the Answer was not only detrimental to the Petitioner's legal position for case #5528 but removed the basis for same and there was nothing the Petitioner could say or do to influence or persuade the judge from not permitting the Appellee to amend his answer. As the result there were no legal witnesses or record made of

this hearing, because the defense attorney at that time soon after disappeared from the Delaware Valley area and could not be found to be subpoenaed as a witness for the trial in regard to this action. This action started a long list of pleadings and legal actions that put the Petitioner on a 17 year legal merry go round right up to and including the United States Supreme Court in order to cover up and conceal errors of judicial judgment and prevent case #5528 from being heard due to legal ramifications to the insurance company as the result of the legal exposure which would be made part of the legal and official record if the case was heard. The ensuing years in between these initial legal errors that set the Petitioner upon a 17 year legal merry go round and up to the actual trial for case #2696 occurred many, many such legal actions, too many to be submitted here but they are all part of the legal record. Besides the legal record of the court all other legal and governmental agencies have at one time or an-

other have been requested by the Petitioner to become involved in his fight for justice such as the various Insurance Commissioners of Penna, along with the Attorney Generals of the State, District Attorneys, State, Local and Federal officials and agencies, Judicial Inquiry and Review Board; the Disciplinary Board, etc., but all had an excuse or refused to get involved primarily due to the nature of case #5528 and the strong influence of the insurance companies in the State of Pennsylvania and the legal and judiciary involvement in same; also complaints were made and a thick file of same have been compiled in the Postal Inspector's office, proof of wiretapping is in the safekeeping of Bell Telephone Company. Over the years a recurrence of these problems and complaints would arise when legal activities were taking place concerning these cases, which are all on record with the various agencies involved. Also, breaches of civil procedure meant nothing to the appellee concerning these legal actions, because no

action was ever taken by any agencies other than to say it was wrong, improper, illegal, etc., but no action to stop, curtail or restrain the appellee in this regard was ever taken. Also, in all the appellee's replies to the petitioners pleadings they inevitably would make reference to the Petitioner as a Pro Se person which proved over the years to be an effective measure to influence the court not to rule in the Petitioner's favor regardless of the substantiating proof by the Petitioner of his position. The bias and prejudicial attitude of the courts toward a Pro Se person is part of and one of the main reasons for the Petitioner being forced to ride the legal merry go round all these years.

The Petitioner had several attorneys. The first one he retained initially had to be forced by another attorney to file the Petitioner's Proof of Loss on the 60th day for filing same in order to protect the Petitioner's legal rights by the statute of limitation for filing same

according to the insurance policy agreement. The third attorney, a former State Representative, who is presently a judge was released due to the way he handled an arbitration case concerning the house fire damage claim work done after the fire and only by the Petitioner's staunch and firm position taken at this hearing in opposition to his own attorney's advice did the Petitioner take this position to protect his own legal interest because there was a legal point involved that the Petitioner would use when the case went to trial. The fourth attorney helped to prevent the quashing of the case and the fifth attorney, who the Petitioner paid $5000 up front fee to present case #5528 in conjunction with case #2696, turned out to be unreliable and tried to wing it and finally refused to proceed to the scheduled trial for case #5528. He also refused to return the $5000 fee and held the Petitioner's files, record, evidence and court displays hostage until the Petitioner would sign his unconditional release from the case. The trial

judge, who was Judge Fred G. DiBona, Jr., at the time, knew the problem the Petitioner had with his attorney and refused to sign the attorney's Petition for his unconditional release from the case, but Judge DiBona died and the case was reassigned to Judge Lawrence Prattis six months later after Judge DiBona's death. The Petitioner was not informed of the reassignment until he was notified of the first Pre-Trial Conference by Judge Prattis who was assigned the case for trial with a predetermined and irrevocable trial date of January 5, 1981. At the second and final Pre-Trial Conference Judge Prattis stated he would sign the Petitioner's attorney, Alexander Zdrock's unconditional release, even though he knew the attorney was holding the Petitioner's files and records hostage until he had received his unconditional release. Also, Judge Prattis called for a court stenographer to take his prepared statement which he read into the record to protect himself from any illegalities if the case was appealled due to the fact that the Petitioner

was being forced to go to trial Pro Se as a result of the irrevocable trial date and because the Judge refused all requests by the Petitioner for any postponement, continuance or delay of the trial. The Judge knew of and was continuously made aware of the Petitioner's problem in obtaining another attorney; also, the fact that not all the files, documents and records were not returned by the former attorney; especially, the attorney's statement that he lost two exhibits the Petitioner had prepared for trial. They were two white display cards of the damage property interior layout, size 4' x 4'. Also, at the last minute before the trial the Petitioner's expert witness supposedly took a trip; therefore, all his estimates were ruled inadmissible evidence and the complete list of witnesses was ruled inadmissible by Judge Prattis in chambers just before the start of the trial as he did when he prohibited any mention of case #5528 at the trial. Again, of course, none of this is part of the record and, in this regard, the transcript

order by the Petitioner for the appeal was paid for by the Petitioner but never received up to the writing of this Writ of Certiorari and again the Disciplinary Board was made aware of these facts but never got involved. Also, the Judge's Memorandum of Law was not submitted until the records were sent to the Superior Court on appeal at which time he filed the transcript made of his prepared statement at the second and final pre-trial hearing. The Judicial Board was made aware of this but they refused to get involved. Even the pretrial brief submitted to the Judge by the Petitioner before the trial was not made part of the record because the Judge refused to allow it to be offered in evidence at the trial, but the Petitioner made it part of his Petition for Re-consideration filed in the Penna. Supreme Court, which is presently being appealed. As a matter of fact, due to Judge Prattis', last minute rulings before the trial, such as not hearing case #5528, no evidence and no witnesses permitted, the Petitioner went to trial with nothing to present at the trial. As the result, the award of the trial

was less than the total amount offered by the insurance company prior to the end of the trial. The trial was a farce and a travesty of legal indignities to the Petitioner and the legal system. Even though the Petitioner determined that the case would take 2½ to 3 weeks for trial, the trial date was preset to start the week of Monday, January 5, 1981 and only the Judge knew that the second week was the Judge's chambers week. The defense attorney said the case would take only three days which it did due to the Judge's ruling moments before the start of the trial. Judge Prattis accomplished in two minutes what the Appellee could not do in 17 years and that is prevent case #5528 from being heard and all witnesses and evidence were not made part of the official legal record. Judge Prattis by his rulings destroyed both cases by ordering the Petitioner to trial Pro Se who could not under the wildest imagination be a trial lawyer or prepare a case of such magnitude for trial under the circumstances in the short time left for the Petitioner to prepare same. Especially in view of

the fact that all the files and records, etc., were withheld from him until almost the time of the trial. The real significance of the low amount awarded to the Petitioner was that if any larger amount had been awarded it would warrant a State Insurance Commissioner investigation, which would have been mandatory by law. This was the reason for the 17 year struggle, not to hear case #5528 and keep the award down. This was accomplished by Judge Prattis' handling of the case and his decisions, which the Petitioner feels is not part of the transcript or official record. A large and a significant part of substantiating the Petitioner's case history is not part of the official record and this can only be done to a Pro Se person because an attorney would object to such proceedings and techniques used to hide the truth as to what really was transpiring and as a Pro Se person the Petitioner did not know what was proper or improper and the same applies to the trial itself which makes it foolish to assume that any person would willing go to trial as a Pro Se person unless he had no other choice.

which was the way it was presented to the Petitioner. All requests to delay the trial in order to get legal representation were denied by the Judge and the Petitioner had no other choice but to go to court Pro Se as ordered. The technique of taking legal advantage of the Petitioner because he is a Pro Se person was used throughout the 17 year history right up to the present time. As a result of various court and court administrations techniques of delaying of responses and improper mailings, etc., and the Petitioner's lack of legal knowledge of civil procedure and legal facilities to research the legal cases references, etc., and the time and cost for all this legal procedure and the fact that the Petitioner could not retain an attorney to represent him, due to the time the Orders were rendered which were just before the trial session would start and all competent trial lawyers are busy. Also, attorneys did not want to get involved due to the nature of case #5528 and the judicial involvement. The technique of timing and presentation

of case #5528 with its judicial involvement and Pro Se characterization of the Petitioner being used throughout the turmoil history of this case, is reflected in part of the official record and unofficial documentation. This process was used throughout this case history from the Common Pleas to the Superior Court and the Penna. Supreme Court, when the courts and court administrations had so far departed from the accepted and usual course of judicial proceedings and sanctioned same, which is reflected in the official and unofficial records. As a matter of fact, it was such a departure that it was the basis for the Petitioner's request for an extension of time to file this Writ of Certiorari that this court granted.

This is a test case of precedence and can only be substantiated and visualized by reviewing the complete history which is too long and complicated to be presented here but can be presented and reviewed by the court ordering the original records from the Penna. Courts because

as the Petitioner previously stated he would only be relating to that part of the long history of these cases, as to how it all started and some of the proceedings immediately before the trial, the trial itself and the results of same which is one of the court's actions to be reviewed by this Petition for Writ of Certiorari besides the actions of the Superior Court and the Pennsylvania Supreme Court. In regard to a case history of the actions of these two courts can be found as part of the official record, but the departure of the these Courts and Court Administrations can only be found in the unofficial record, some of which was made part of the Petitioner's Petition for Reconsideration in the Penna. Supreme Court. It is the final denial of the Petitioner's Petition for Reconsideration that is the subject of review by this Petition for Writ of Certiorari, which contains the history of these cases in the superior and Supreme Court of Penna. Only by reviewing the records of the Common Pleas Court, Superior Court and the Supreme Court of

Pennsylvania can the complete history of these cases be properly and completely presented to the Court; therefore, the Petitioner relies upon the discretion of the Court in this regard.

REASONS FOR GRANTING WRIT

The numerous legal actions taken in the 20 year history of these cases are such that they are too voluminous to even attempt to reduce to a small concise statement of fact for presentation to this court for review. Likewise, the legal actions taken in the Superior Court with additional actions taken previously in the Pennsylvania Supreme Court and the United States Supreme Court other than the present Writ of Certiorari to the Penna. Supreme Court for cases No. 754 and 499, that has many Nunc Pro Tunc Petitions, which illustrates and substantiates the fact that the Court and Courts' administrations has so far departed from the accepted and usual course of judicial proceedings and so far sanctioned such a departure by the lower Courts, as to call for an exercise of of this Court's power of supervision, this departure goes all the way back to the beginning, when these two cases were consolidated and listed for trial. The primary purpose and aim

of the Appellee, Court and Court Administrations was to ignore, eliminate and stop all proceedings in regard to the trial of the second case #5528, the case of precedence, and also due to the legal ramifications of same against the insurance company, per Penna. Insurance law had this case #5528 been tried in court and made part of the official record.

Another example of the Court and Court Administrations' scandalous behavior to squash case #5528 can be found in the Appendix of this Petition showing the Petitions and Orders filed and rendered in the Supreme Court of Penna. The Petitioner's Petitions for Allowance of Appeal filed in the Supreme Court of Penna. from Superior Court cases numbered 271 and 272, case #449 E.D. Allocatur Docket 1982 was filed Sept. 8, 1982 and case #754 E.D. Allocatur Docket 1982 was filed December 22, 1982 and both were denied Per Curiam the same date, March 4, 1983 and Petitions for Reconsideration were filed for both March 14, 1983 and both were denied Per

Curiam, July 25, 1983. As the result, the denial of both Petitions for Allowance of Appeal at the same time, even though they were filed 4 months apart and the fact that Petitions for Reconsideration for both cases were denied at the same time, prevented the Petitioner from filing separate and individual Writs of Certiorari for separate and individual rulings upon each case. Therefore, the case #5528 is again hidden from exposure and scrunity by the court under the cloak of a ruling on case #2696, which was done throughout the case history of these two cases. This legal manipulation can only be accomplished with the cooperation of the court administrations and sanction by the courts. Even though the Petitioner went to trial, Pro Se, by order of the court, the case listed for trial was #2696 only and case #5528 was ruled by the judge, in chambers, not to be heard moments before the start of the trial. As a result, this was not made part of the official record so when the smoke cleared, the record and the judge in his

Memorandum of Law states that case #5528 was heard. The Petitioner proved this to be false and substantiated this fact in one of his Petitions that is part of the official record. As a matter of fact, the Appellee's filed brief and the judge's Memorandum of Law are so similar they could have been written by the same person, because they both have the same misrepresentation and interpretation of fact and law. Likewise, the Memorandum Opinion filed by the Superior Court. The turbulent history of these two cases has so many illegalities and improper procedures used by the appellee to the appellant's legal detriment with the approval of Court administrations and sanctioned by the Courts' denial Per Curiam Orders makes you wonder if there is any justice for the common man in our judicial system; especially, a Pro Se person because the appellee in almost all their responses to legal actions of the Petitioner mention, without failure, that the Petitioner is a Pro Se per-

son which almost automatically triggers a favorable response or ruling from the Court for the appellee. This technique has been used throughout the long 20 year history of these cases. The Petitioner can go on and on in sighting numerous such incidents which the Disciplinary Board and the Judiciary Board of Pennsylvania were kept abreast of these occurrences as they arose by virtue of the fact that they received blind copies of all communications and letters sent to the Courts and Court Administrations sent from the Petitioner.

The Disciplinary Board and the Judiciary Board of Pennsylvania was requested by the Petitioner to intervene in the appellant's behalf when questionable legal problems arose in their jurisdiction but the Petitioner was refused any assistance or help to solve these problems. Further, the Judiciary Board refused to accept the Petitioner's certified mailing so that they would not become involved in the questionable judiciary actions and involvement with these cases.

As the result of the Judiciary Board's position taken, when they refused to accept the Petitioner's certified mailing of documents to substantiate and warrant a complaint against the courts and the court administrations, the Petitioner stopped communicating with those agencies to intervene and help to protect his legal rights of due process of law and equal protection of the law as guaranteed by the United States Constitution. As previously stated, the Petitioner can go on and on sighting incidences between the Petitioner, the Appellee, the Courts and Court Administrations because the Petitioner, a Pro Se person, does not have the legal knowledge, experience, legal facilities or financial resources in order to try to cope and combat such legal opposition with their legal influences and financial resources to protect the insurance company, the legal profession and the judicial system of Penna. The 20 year history of these cases is like a snowball going down the mountain, the cover up of one legal indiscretion leads to

another and as the years went by and more and more legal actions were taken, the snowball became bigger and bigger with more and more courts and court administrations getting involved, to the point it was imperative to stop the Petitioner's fight for justice by stopping case #5528 from being heard and made part of the official record. As previously stated, this was the primary purpose and aim of the Appellee, the Courts and Court Administrations to protect all parties involved which was one of the biggest problems the Petitioner had in trying to find and retain an attorney who would be willing to go to trial for case #5528 with such judicial involvement and legal ramifications. If any attorney would be willing to do so, he would be ostracized from the legal profession and would never win another case in the state of Penna. So you can see that the Petitioner was not Pro Se by choice but by order of the Court, because the Petitioner had attorneys throughout the 20 year history of this case right up to the time of the

trial, when the trial judge signed a release order to permit the Petitioner's attorney to withdraw from the case, which the previous trial judge refused to do. The Petitioner's attorney's withdrawal release was questionable due to the contradictory dates of the order and the date of entry on the docket. This matter was referred to the Judiciary Board, but they refused to act upon the complaint and eventually refused all communication from the Petitioner for the reasons previously stated.

Again, due tothe numerous incidences that could be sighted to substantiate the Petitioner's position, the Petitioner respectfully requests that the Court order all original documents of record from all the courts below be forwarded to this court for review with this petition for Writ of Certiorari because this petition is meaningless without such substantiating documentation. The Petitioner would like to draw the court's attention to the records filed in the Supreme Court; especially, the Petitioner's 100 page Petition for Reconsideration for Al-

lowance of Appeal, whose denial Per Curiam Order is being appealled, because it contains 7 exhibits for review. These exhibits are an accumulation of documents, petitions and brief, etc., some of which were not made part of the official record, that further substantiates the Petitioner's position and basis for granting this Writ of Certiorari. The Petitioner offered to submit photostats of these documents with his Writ of Certiorari, due to the excessive cost of certification of the voluminous documentation, records and files of the courts below. The Petitioner has not heard from the court at the time of writing of this Petition as to the Petitioner's request, but now believes it is prohibited after reading the rules of the court pertaining to same. Therefore, it is imperative to substantiate the Petitioner's position that the court consider ordering up the original records of all the courts below, due to the excessive cost of certification of the voluminous records of the lower court by the

Petitioner.

The Petitioner can go on and on in this layman fashion to support his position because he is Pro Se and doesn't really know how to properly and legally present his position; nor does he have time left, due to no fault of the Petitioner, to research the legal documentation to support his position such as case references and footnotes, etc., as any competent attorney would have done. The bottom line is the facts of each case and the facts are found in the records, files and documentations of these cases, which substantiate the Petitioner's layman position that his constitutional rights have been violated, and the arbitrary, capricious and unreasonable Per Curiam Orders and decisions of the Courts and Courts administrations has so far departed from the accepted and usual course of judicial proceedings and so far sanctioned such departure by the lower courts, as to call for an exercise of this Court's power of supervision and also the fact that this Writ of Cer-

tiorari is an appeal to vacate the judgment of February 5, 1981 in the Common Pleas Court and grant a new trial for same so that the precedent case #5528, hidden under the cloak of case #2696 which was not heard can be heard and made part of the official record. Also, the Petitioner hopes the court will exercise their power of supervision so that the Petitioner will not be forced to go to trial again, Pro Se, because case #5528 must have proper legal representation for presentation of a case of precedence in court, which is in the best interest of the public good and their general welfare, as provided for and mandated by the Constitution of the United States; also, for the legal system of our country and the preservation of the high court's standards as set by the constitution, may be upheld.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that this Writ of Certiorari should be granted.

Respectfully submitted,

John J. Scarselletti

JOHN J. SCARSELLETTI,
Petitioner, Pro Se

CERTIFICATE

I hereby certify that this Petition is the final appeal of a 20 year turbulent history of appeals and is filed in good faith and not for the purpose of delay.

Respectfully,

John J. Scarselletti

JOHN J. SCARSELLETTI,
Petitioner Pro Se

APPENDIX

IN THE
SUPREME COURT OF PENNSYLVANIA
For The Eastern District

No. 754 E. D. Allocatur Docket 1982

JOHN J. SCARSELLETTI,

Appellant,

vs.

AETNA CASUALTY & SURETY COMPANY,

Appellee,

PETITION FOR ALLOWANCE OF APPEAL
FROM SUPERIOR COURT NO. 271 & 272 Phila. 1981
FILED DECEMBER 22, 1982

ORDER

March 4, 1983 Petition for Allowance of Appeal Denied. Per Curiam.

APPENDIX

IN THE
SUPREME COURT OF PENNSYLVANIA
For The Eastern District

No. 754 E.D. Allocatur Docket 1982

JOHN J. SCARSELLETTI,

Appellant,

vs.

AETNA CASUALTY & SURETY COMPANY,

Appellee,

PETITION FOR RECONSIDERATION OF PETITION FOR
ALLOWANCE OF APPEAL
FILED MARCH 15, 1983

ORDER

July 25, 1983 Petition for Reconsideration of Denial of Appeal Denied. Per Curiam.

APPENDIX

IN THE
SUPREME COURT OF PENNSYLVANIA
For The Eastern District

No. 499 E.D. Allocatur Docket 1982

JOHN J. SCARSELLETTI,

Appellant,

vs.

AETNA CASUALTY & SURETY COMPANY

Appellee

PETITION FOR PERMISSION TO FILE LATE A PETITION FOR ALLOWANCE OF APPEAL, NUNC PRO TUNC
FILED AUGUST 24, 1982

ORDER.

August 30, 1982 Petition Granted
s/HENRY X.O'BRIEN C.J.

APPENDIX

IN THE
SUPREME COURT OF PENNSYLVANIA
For The Eastern District

No. 499 E.D. Allocatur Docket 1982

JOHN J. SCARSELLETTI,

Appellant,

vs.

AETNA CASUALTY & SURETY COMPANY,

Appellee,

PETITION FOR ALLOWANCE OF APPEAL
FROM SUPERIOR COURT NO. 271 & 272 Phila.1981
FILED AUGUST 30, 1982

AMENDMENT TO THE PETITION FOR ALLOWANCE OF APPEAL BY ADDING PARAGRAPHS (10) and (11) AND A NEW CONCLUSION CONTINUING FROM PAGE 6.
FILED SEPTEMBER 8, 1982

ORDER

March 4, 1983 Petition for Allowance of Appeal Denied . Per Curiam

APPENDIX

IN THE
SUPREME COURT OF PENNSYLVANIA
For The Eastern District

No. 499 E.D. Allocatur Docket 1982

JOHN J. SCARSELLETTI,

Appellant,

vs.

AETNA CASUALTY & SURETY COMPANY

Appellee,

PETITION FOR RECONSIDERATION OF PETITION FOR
ALLOWANCE OF APPEAL
FILED MARCH 15, 1983

ORDER

July 25, 1983 Petition for Reconsideration of Denial of Appeal Denied. Per Curiam

APPENDIX

IN THE
SUPREME COURT OF PENNSYLVANIA
For The Eastern District

No. 499 E.D. Allocatur Docket 1982

JOHN J. SCARSELLETTI,

Appellant,

vs.

AETNA CASUALTY & SURETY COMPANY,

Appellee,

PETITION FOR PERMISSION TO FILE LATE A REVIEW PETITION FOR RECONSIDERATION OF PETITION FOR RECONSIDERATION DENIED JULY 25, 1983 NUNC PRO TUNC. FILED SEPTEMBER 9, 1983

ORDER

November 29, 1983 Petition Denied.
s/Samuel J. Roberts, C.J.

APPENDIX

IN THE
SUPREME COURT OF PENNSYLVANIA
For The Eastern District

No. 754 E.D. Allocatur Docket 1982

JOHN J. SCARSELLETTI,

Appellant,

vs.

AETNA CASUALTY & SURETY COMPANY,

Appellee,

PETITION FOR PERMISSION TO FILE LATE A REVIEW PETITION FOR RECONSIDERATION OF PETITION FOR RECONSIDERATION DENIED JULY 25, 1983 NUNC PRO TUNC. FILED SEPTEMBER 9, 1983

ORDER

November 29, 1983 Petition Denied.
s/ Samuel J. Roberts, C.J.

No. 83-1120

IN THE

SUPERIOR COURT OF PENNSYLVANIA

October Term, 1983

JOHN J. SCARSELLETTI,
Petitioner

v.

AETNA CASUALTY & SURETY COMPANY,
Respondent

SUPPLEMENTAL APPENDIX

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APPENDIX

IN THE
SUPERIOR COURT OF PENNSYLVANIA

No.271 & 272 Philadelphia, 1981

JOHN J. SCARSELLETTI, Appellant,

vs.

AETNA CASUALTY & SURETY COMPANY,
Appellee,

APPEAL FROM THE ORDER OF JANUARY 5 and 8, 1981
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA
COUNTY, TRIAL DIVISION, LAW,
No. 2696 September Term, 1965

BEFORE: WICKERSHAM, CIRILLO and LIPEZ, JJ.

PER CURIAM:

Order affirmed. July 30, 1982

APPENDIX

IN THE
SUPERIOR COURT OF PENNSYLVANIA

No. 271 & 272 Philadelphia, 1981

JOHN J. SCARSELLETTI,
Appellant,

vs.

AETNA CASUALTY & SURETY COMPANY,
Appellee,

APPEAL FROM THE ORDER OF JANUARY5 and 8, 1981
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA
COUNTY, TRIAL DIVISION, LAW,
No. 2696 September Term, 1965

BEFORE: WICKERSHAM, CIRILLO and LIPEZ, JJ.

MEMORANDUM OPINION:

This is an appeal from an Order of the Court of Common Pleas of Philadelphia County entered January 8, 1981. The appellant, John J. Scarselletti, seeks to have this Order vacated and a new trial granted.

On October 31, 1964 a fire occurred at the home of the appellant on 7026 McCallum Street in Philadelphia, thereby causing damage. The property was insured against fire and other casualty loss and damage by the appellee, the Aetna Casualty and Surety Company. The Aetna policy provided the following coverages:

Dwelling	$20,000
Appurtenant private structure	2,000
Unscheduled personal property	8,000
Additional living expense	2,000
Total Coverage	$32,000

Based on an inspection of the premises made by one of its' adjustors, Aetna offered to settle with the appellant for $5,500.00. However, the appellant asserted that he was entitled to the maximum amount afforded by the policy.

On October 27, 1965 the appellant initiated an action in assumsit against Aetna for the total amount of the insurance policy plus interest. On August 16, 1967 the appellant initiated a second

suit against Aetna for $100,000 alleging fraud and bad faith on the part of Aetna in settling this claim. The appellant averred that Aetna tried to obtain a quick settlement by concealing the real and extensive damage caused by the fire. On October 2, 1967, by stipulation of counsel and approval of the court, the two cases were consolidated for pleading and trial. Over the next several years there were various delays in this case for the filing of motions and petitions as well as the granting of continuances. Finally, on January 5, 1981 the case was brought to trial before the Honorable Lawrence Prattis and a jury. On January 8, 1981 the jury rendered a verdict for the appellant and awarded damages in the following amounts:

Dwelling	$5500.00
Personal Property	2400.00
Additional Living Expense	252.67
Total Damages	$8152.67

On February 5, 1981, after the Order has been docketed, the appellant appealed from the favor-

able verdict. Subsequently, on July 28, 1981, Judge Prattis issued a Memorandum and Order denying a Motion for a New Trial.[1] This appeal now follows:

On appeal, the appellant seeks a new trial alleging: (1) the trial judge's actions were arbitrary and unreasonable, thereby denying him Due Process of Law; (2) the award of the jury was inadequate; and (3) both cases were not heard.

In his brief the appellant lists fifteen instances in which the trial court's attitudes and actions allegedly prejudiced him, thereby denying the appellant his constitutional rights. After thoroughly reviewing the record in this matter, we find that the lower court's actions were proper and that the appellant's constitutional rights were not violated. This argument by the appellant is, therefore, without merit.

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[1] No written post-trial motions are included in the record or noted on the lower court's docket. Under Pa. R.C.P. No. 2271.1:

> All post-trial motions after trial by jury, indlucing a motion for a new trial, judgment non obstante veredicto, judgment upon the whole record after disagreement of a jury, removal of a nonsuit and in arrest of judgment, shall be filed within (10) days after nonsuit or verdict or disagreement of the jury.

Therefore, it would appear that the appellant has failed to preserve any issues for appeal. Moreover, Pa. R.A. P. no. 1701 (a) provides:

> Except as otherwise prescribed by these rules, after an appeal is taken or a petition for allowance of an appeal is filed in a matter or review of a quasijudicial order is sought, the lower court or other government unit may no longer proceed further in the matter.

After the appellant filed his notice of appeal on February 5, 1981, the lower court was without authority to rule on a motion for a new trial. However, due to the protracted proceedings which have plagued this matter from the outset, we have decided to address the merits of the issues presented by the appellant.

A new trial should be granted only when the jury's verdict is so contrary to the evidence as to shock the trial court's sense of justice and a new trial is necessary to rectify the situation. Austin v. Ridge, 435 Pa. 1, 255 A.2d 123 (1969); see also, Tinicum Real Estate Holding Corporation v. Commonwealth, Department of Transportation, 480

Pa. 220, 389 A.2d 1034 (1978); Bertab, Inc. vs. Fox, 275 Pa. Super. 76, 418 A.2d 618 (1980).

In this case, Aetna offered to settle this claim in 1964 for $5500.00. In 1981, following a trial during which testimony and seven photographs of the premises were presented, the jury awarded the appellant $8152.67 in damages. Even though the appellant may be disappointed with the amount awarded by the jury, it was not so contrary to the evidence as to vitiate justice. Accordingly, we reject this argument of the appellant.

Finally, despite the appellant's allegations to the contrary, both cases were indeed heard by the trial court. The cases had been consolidated for trial in 1967 by stipulation of counsel and approval of the court. Since the amount of damages found by the jury was close to the amount for which Aetna had earlier offered to settle, it is clear that the appellant had not proven fraud or bad faith on the part of Aetna.

For all of the above reasons, we dismiss the appellant's claims and affirm the Order of the Court below.

Order affirmed.

APPENDIX

JOHN J. SCARSELLETTI

vs.

AETNA CASUALTY & SURETY COMPANY

COURT OF COMMON PLEAS No. 4
PHILADELPHIA COUNTY
SEPTEMBER TERM, 1965
No. 2696

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY
JUNE TERM, 1967
No. 5528

MEMORANDUM AND ORDER

This matter is before the court on plaintiff's motion for new trial from a favorable jury verdict. The instant litigation arises from the following factual background.

On or about October 31, 1964, plaintiff's property was damaged by fire. The property was insured by the defendant, Aetna Casualty & Surety Company against damage caused by fires. Defendant admits that a fire caused damage to the plaintiff's property but contests the amount claimed for damages by the plaintiff.

The law mandates that a new trial should be granted when the jury's verdict is so contrary to the evidence as to shock the trial court's sense of justice and a new trial is necessary to rectify the situation. Austin v. Ridge, 435 Pa. 1, 255 A.2d 123 (1969); Sindler v. Goldman, 256 Pa. Super 417, 389 A.2d 1192 (1978). The decision to grant a new trial is within the court's discretion. The trial court's decision to grant or deny a motion for new trial will not be reserved on appeal, absent demonstrating the judge acted capriciously or palpably abused his discretion. Junk v. East End Fire dept., 262 Pa. Super 473, 396 A.2d 1269 (1978). Moreover, conflicts in evidence are to be resolved by the fact-finder. The amount of damages required to fully compensate a plaintiff is a question for the jury to assess from the evidence. If a verdict bears a reasonable resemblance to the proven damages, it is not the function of the court to substitute its judgment for that of the jury even if the verdict

is low. Wolfgang v. Wiest, 47 Northumb. L.J. 164 (1975). A trial judge will be held to abuse his discretion when he grants a new trial merely because he would have arrived at a different conclusion on the facts in the case than reached by the jury. Bertab Inc. vs. Fox, ___ Pa. Super 418 A.2d 618 (1980).

Accordingly, plaintiff's motion for new trial is hereby denied.

PRATTIS
J.

July 27, 1981

O R D E R

AND NOW, to wit, this 28th day of July, 1981, it is hereby ORDERED and DECREED that Plaintiff's Motion for New Trial is denied.

BY THE COURT

PRATTIS
J.

Received — Civil
July 29, 1981